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**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA**

In re:) Chapter 11
)
Jacqueline Lopez-Flores,) Case No.: 18-52014 SLJ
) R.S. No. SAZ-1
Debtor)
) Date: August 6, 2019
)
) Time: 10:00 a.m.
)
	/

MOTION FOR RELIEF FROM AUTOMATIC STAY

Blaze, Inc. moves the Court as follows:

1. For an order modifying the Automatic Stay to authorize continuation to judgment of Santa Clara County Superior Court Action("Action") No. 1-15-CV-280113, entitled *Blaze, Inc. and Jacqueline Lopez-Flores vs. VF Mall, LLC*. The Action includes a cross-complaint filed by VF Mall, LLC against Blaze, Inc., Jacqueline Lopez-Flores, and other named individuals.

2. The motion is made for cause, pursuant to Section 362(d)(1), and is based upon the Declaration of Saul Flores, an officer of Blaze, Inc., the points and authorities set forth below, and such other and further evidence as may be introduced at the hearing.

1 BACKGROUND

2 1. Prior to commencement of her Chapter 11, the debtor herein, Jacqueline Lopez-
3 Flores("Debtor") together with Blaze, Inc. filed a lawsuit, the Action, against VF Mall,
4 LLC("Mall"). Mall filed a cross- complaint against Blaze, Inc., Debtor, and other named
5 individuals. A copy of the Action and cross -complaint are attached as Exhibits A and B to the
6 Declaration of Saul Flores.

7 2. Essentially, the Action alleged that Blaze Inc. and Mall had entered into a
8 commercial real property lease for a ten year term, pursuant to which Blaze Inc. was authorized
9 to construct an upscale restaurant and lounge in the Valley Fair shopping center in which Mall
10 was lessor. Over a number of years, Blaze, Inc. expended millions of dollars in the design,
11 approval, and construction phases of developing its leasehold premises.

12 3. The Action further alleged that Mall induced Blaze, Inc. to enter into the lease by
13 failing to disclose that Mall had been negotiating with a developer for plans to expand Valley
14 Fair shopping center that would eliminate Blaze, Inc's leasehold well short of the term of its
15 lease.

16 4. The Action alleged that Mall breached the lease agreement, interfered with
17 Blaze, Inc's prospective economic advantage, and engaged in fraud, misrepresentation, and
18 unfair business practices. The damages requested are in the millions of dollars.

19 5. Mall's cross-complaint alleged breach of contract by Blaze, Inc., and breach of
20 commercial guarantees by named individuals including Debtor.

21 6. The Action and Mall's cross-complaint were on the verge of trial when Mall
22 notified the Superior Court that Debtor's Automatic Stay prohibited the trial from going
23 forward. As a result, the trial was taken off the court's calendar.
24
25

1 7. The firm("Firm") of Matteoni, O'Laughlin & Hechtman is representing Blaze,
2 Inc. and Debtor in the Action, and the Firm is representing Blaze, Inc, Debtor, and other named
3 individuals in Mall's cross-complaint.

4 8. Attorney's fees for Blaze, Inc and the other parties are being advanced by an
5 entity owned by Saul Flores. Debtor is not being asked to contribute to the Firm's fees.

6 9. If the Action is successful and the Mall's cross-complaint defeated, then Blaze,
7 Inc. will recover sizeable damages, and Debtor, as a part owner, will indirectly benefit. In
8 addition, Debtor's guaranty, for which Mall alleged damages approximate \$500,000, will be
9 cancelled.
10

11 CAUSE EXISTS FOR RELIEF FROM STAY

12 Among the factors to consider in determining whether relief from the automatic stay
13 should be granted to allow state court proceedings to continue are considerations of judicial
14 economy, the expertise of the state court, prejudice to the parties, and whether exclusively
15 bankruptcy issues are involved. In re Kronemyer, 405 B.R. 915, 921(9th Cir. BAP 2009).

16 When a pending trial has been interrupted by the automatic stay, judicial economy, not
17 to mention the lack of prejudice to both parties who have presumably prepared for the trial, will
18 be justification enough to lift the automatic stay. In re Kemble, 776 F.2d 802, 807(9th Cir.
19 1985).

20 There is no prejudice to the bankruptcy estate, because attorney's fees will be defrayed
21 by another party to the litigation.
22

23 The gist of the Action and cross-complaint for breach of contract, interference with
24 prospective economic advantage, misrepresentation, fraud, and unfair business practices are
25 matters clearly within the expertise of the state court.

1 Where nondebtor parties are involved in the state court litigation, then judicial efficiency
2 militates in favor of one trial in state court. In re Westwood Broadcasting, Inc., 35 B.R. 47,
3 49(Bankr. Haw. 1983). Mall's disputed claim must be adjudicated somewhere; and, as no
4 bankruptcy issues are involved in the Action or cross-complaint, the state court should be the
5 proper venue for concluding the parties' litigation.

6 CONCLUSION

7 Relief from stay should be granted to permit the parties to litigate the Action and cross-
8 complaint to judgment in the state court.

9 Dated: 7/15/2019

10 /s/Stanley Zlotoff